



indicates that although plaintiff Cunningham has serious health problems related to his heart condition, his health condition is not in jeopardy or being worsened as a result of his being released from the Missouri Department of Corrections to a halfway house. Therefore, because plaintiff's claims challenging his placement at a halfway house are, in fact, challenging the conditions imposed as to his conditional release date; and such conditions are not posing an imminent risk to plaintiff's health, such claims are dismissed. As set forth in the recommendation of the Magistrate Judge, adopted by this court, Cunningham has no liberty interest in his conditional release date or the conditions imposed.

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$255.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

Based on the foregoing, this court finds defendants' motions to dismiss as moot.

IT IS, THEREFORE, ORDERED that defendants' motions to dismiss are moot [26, 32]. It is further

ORDERED that the Magistrate Judge's December 13, 2005 Report and Recommendation is adopted [18 ]. It is further

ORDERED that plaintiffs' claims, including those of Arcie Cunningham regarding his health, are dismissed, pursuant to the provisions of 28 U.S.C. § 1915A, for failure to state a claim for which relief can be granted, and the Clerk of Court is directed to enter a final judgment closing the case. It is further

ORDERED that plaintiff Cunningham's motion for a preliminary injunction as to his claims is denied [29]

/s/Scott O. Wright

SCOTT O. WRIGHT

Senior United States District Judge

Dated: April 3, 2006